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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,059	02/16/2001	David Frederick Bantz	YOR920000804US1	5389

7590 06/01/2004	EXAMINER
Duke W. Yee	ELISCA, PIERRE E
Carstens, Yee & Cahoon, LLP	

ART UNIT	PAPER NUMBER
3621	

P.O. Box 802334
Dallas, TX 75380

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/788,059	BANTZ ET AL.
	Examiner	Art Unit	
	Pierre E. Elisca	3621	Mୱ

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 March 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Art Unit: 3621

DETAILED ACTION

1.   This Office action is in response to Applicant's Appeal/Brief, filed on 3/15/2004.

2.   Regarding the status of the claims in the instant application, the Examiner has found new prior art. The Examiner is obliged to apply the newly found prior art. Thus, the finality of the prior Office action has been withdrawn and a new rejection follows. The Examiner regrets the delayed process of the application. Accordingly, claims 1-33 remain pending in the application.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fader et al.(U.S. Pat. No. 6,519,570) and Baldwin et al. (6,310,952) in view of **and Karmi (U.S. Pat. No. 5,884,157)**.

Page

As per claims 1, 3, 7-9, and 11 Fader substantially discloses a system/method of conducting a time-auction among queuing customers. A bid is received from one of the queuing customers and compared with the prices being offered by the other customers waiting in line. The queuing showing a user's updated position in the queue due to having bid a higher rate to receive services from the information provider (which is readable as Applicant's claimed invention wherein it is stated that a method of providing service provider information to a client device in a distributed computer system) comprising:

obtaining at least bids from a plurality of service providers (plurality of service providers or bids receive from one of the queuing customers) for providing a service (see., abstract, col 2, lines 36-39, fig 5, col 6, lines 47-64, specifically wherein it is stated that the customer is billed at the highest bid price for the services received from the service provider. Applicant's newly added limitation wherein said plurality of service providers is disclosed in the abstract, specifically wherein it is stated that the system/method allow vendors such as service providers, col 6, lines 47-64, plurality of bids);

providing the bids from the plurality of service providers (abstract, col 6, lines 47-64, Applicant's newly added limitation wherein said plurality of service providers is disclosed in the abstract, specifically wherein it is stated that the system/method allow vendors such as service providers, col 6, lines 47-64, plurality of bids).

It is to be noted that Fader fails to explicitly disclose an estimated time (or travel) completion for the service. However, Baldwin discloses a method/system for providing easy access to a service provider that provides service over a communications system. A queue 27 informs a caller of an estimated amount of time before the caller will reach the top of the queue. A set of information includes information such as the name of the caller, the amount of money the caller is willing to pay, or bid, for a queue (see., Baldwin, col 4, lines 33-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the time-auction of Fader by including the limitation detailed above as taught by Baldwin because such modification would provide automated access to service providers based upon an estimated amount of time.

Fader and Baldwin fail to explicitly disclose obtaining a bid from a plurality of service providers. Karmi discloses a wholesaling services to other service providers that would then retail those services to their existing customers or use it to enlarge their customer base. A primary service providers will be used to denote the company that bid and obtained the spectrum (see., abstract, col 2, lines 125). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the time-auction of Fader and Baldwin by including the limitation detailed above as taught by Karmi because this would allow multiple service providers to use the infrastructure of a single service provider.

As per claim 2, Fader discloses the claimed method of determining a service provider rating for each of the plurality of service providers; and providing the service provider rating for each of the plurality of service providers to the client or customers device (see., col 1, lines 47-52, col 5, lines 12-19).

As per claim 4, Fader discloses the claimed method wherein the at least one bid includes a price for providing the service (see., abstract, specifically wherein it is stated that a bid is received from one of the queuing customers and compared with the prices being offered by the other customers).

As per claim 5, Fader discloses the claimed method as stated in claims 1 and 4 above. It is to be noted that Fader fails to explicitly disclose an estimated time (or travel) completion for the service. However, Baldwin discloses a method/system for providing easy access to a service provider that provides service over a communications system. A queue 27 informs a caller of an estimated amount of time before the caller will reach the top of the queue. A set of information includes information such as the name of the caller, the amount of money the caller is willing to pay, or bid, for a queue (see., Baldwin, col 4, lines 33-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the time-auction of Fader by including the limitation detail above because such modification would provide automated access to service providers based upon an estimated amount of time.

As per claim 6, Fader discloses the claimed method as stated in claim 1 above, including obtaining route information from a route determination provider based on a first location and a second location (see., Figs 1 and 2, col 3, lines 10-37, please note that the role of a service provider is to route information from a first location to a second location. It is to be noted that Fader fails to explicitly disclose an estimated time (or travel) completion for the service. However, Baldwin discloses a method/system for providing easy access to a service provider that provides service over a communications system. A queue 27 informs a caller of an estimated amount of time before the caller will reach the top of the queue. A set of information includes information such as the name of the caller, the amount of money the caller is willing to pay, or bid, for a queue (see., Baldwin, col 4, lines 33-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the time-auction of Fader by including the limitation detail above because such modification would provide automated access to service providers based upon an estimated amount of time. Fader and Baldwin fail to explicitly disclose obtaining a bid from a plurality of service providers. Karmi discloses a wholesaling services to other service providers that would then retail those services to their existing customers or use it to enlarge their customer base. A primary service providers will be used to denote the company that bid and obtained the spectrum (see., abstract, col 2, lines 125). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the time-auction of Fader and Baldwin by

including the limitation detailed above as taught by Karmi because this would allow

multiple service providers to use the infrastructure of a single service provider.

As per claim 10, Baldwin discloses the claimed method wherein the electronic

marketplace provider is present on a proxy server or queuing system 16 (see., see., Fig

1, col 3, lines 21-67, col 4, lines 1-15, please note that the proxy server is readable as

the queuing system 16 since it provides user's identification, such as caller's or user's

name, address, and phone number).

As per claims 12, 16-20, 22, 23, 25, 27-31, and 33 Fader substantially discloses

apparatus of conducting a time-auction among queuing customers. A bid is received

from one of the queuing customers and compared with the prices being offered by the

other customers waiting in line. The queuing showing a user's updated position in the

queue due to having bid a higher rate to receive services from the information provider

(which is readable as Applicant's claimed invention wherein it is stated that an

apparatus of providing service provider information to a client device in a distributed

computer system) comprising:

a first interface or first instructions (see., Fader, figs 1 and 2, customer computers

interface with network 500 and service provider computers 200 interface with network

500) which obtains at least bids from a plurality of service providers (plurality of service

providers or bids receive from one of the queuing customers) for providing a service

(see., abstract, col 2, lines 36-39, fig 5, col 6, lines 47-64, specifically wherein it is stated that the customer is billed at the highest bid price for the services received from the service provider. Applicant's newly added limitation wherein said plurality of service providers is disclosed in the abstract, specifically wherein it is stated that the system/method allow vendors such as service providers);

a second interface or second instructions (see., Faber, figs 1 and 2) which provides the bids from the plurality of service providers (abstract, col 6, lines 47-64. Applicant's newly added limitation wherein said plurality of service providers is disclosed in the abstract, specifically wherein it is stated that the system/method allow vendors such as service providers, col 6, lines 47-64, plurality of bids). It is obvious to recognize that the role of a service provider is to route information from a first location to a second location. It is to be noted that Fader fails to explicitly disclose an estimated time completion or calculating an estimated time for the service. However, Baldwin discloses a method/system for providing easy access or third instructions to a service provider that provides service over a communications system. A queue 27 informs a caller of an estimated amount of time before the caller will reach the top of the queue. A set of information includes information such as the name of the caller, the amount of money the caller is willing to pay, or bid , for a queue (see., Baldwin, col 4, lines 33-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the time-auction of Fader by including the limitation detailed above because such modification would provide automated access to service providers based upon an estimated amount of time.

Fader and Baldwin fail to explicitly disclose obtaining a bid from a plurality of service providers. Karmi discloses a wholesaling services to other service providers that would then retail those services to their existing customers or use it to enlarge their customer base. A primary service providers will be used to denote the company that bid and obtained the spectrum (see., abstract, col 2, lines 125). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the time-auction of Fader and Baldwin by including the limitation detailed above as taught by Karmi because this would allow multiple service providers to use the infrastructure of a single service provider.

As per claim 13, Fader discloses the claimed limitations wherein the processor determines a service provider rating for each of the plurality of service providers and the second interface provides the service provider rating for each of the plurality of service providers to the client device or customer (see., col 1, lines 47-52, col 5, lines 12-19).

As per claim 14, Fader discloses the claimed limitations wherein a third interface (see., Figs 1 and 2, customer computers interface with network 500 and service provider computers 200 interface with network 500) which receives a selection of a selected service provider from the plurality of service providers and a command to place an order for the service with the selected service provider; and a fourth interface which places an order with the selected service provider (see., Figs 1 and 2, customer computers

interface with network 500 and service provider computers 200 interface with network 500, please note that customer or client computers 100 are for placing order or bids, col 3, lines 10-67, col 4, lines 1-57).

As per claims 15, 26, Fader discloses the claimed limitations wherein the at least one bid includes a price for providing the service (see., abstract, specifically wherein it is stated that a bid is received from one of the queuing customers and compared with the prices being offered by the other customers).

As per claim 21, Baldwin discloses the claimed limitations wherein the electronic marketplace provider is present on a proxy server or queuing system 16 (see., see., Fig 1, col 3, lines 21-67, col 4, lines 1-15, please note that the proxy server is readable as the queuing system 16 since it provides user's identification, such as caller's or user's name, address, and phone number).

As per claim 24, Fader discloses the claimed limitations of determining a service provider rating or fourth instructions for each of the plurality of service providers; and providing the service provider rating or fifth instructions for each of the plurality of service providers to the client or customers device (see., col 1, lines 47-52, col 5, lines 12-19).

As per claim 32, Fader discloses the claimed limitations wherein the electronic marketplace provider is present on a proxy server or queuing system 16 (see., see., Fig 1, col 3, lines 21-67, col 4, lines 1-15, please note that the proxy server is readable as the queuing system 16 since it provides user's identification, such as caller's or user's name, address, and phone number).
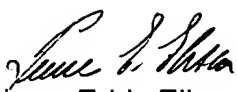
Conclusion

5.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 703 305-3987. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703 305-9769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pierre Eddy Elisca

Primary Patent Examiner

May 26, 2004